



Express Mail No.: EL 501 635 635 US

0360
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Brines et al.

Application No.: 09/547,220

Group Art Unit: 1636

Filed: April 11, 2000

Examiner: To be assigned

For: MODULATION OF EXCITABLE TISSUE
FUNCTION BY PERIPHERALLY
ADMINISTERED ERYTHROPOIETIN

Attorney Docket No.: 10165-006-999

RESPONSE TO NOTICE TO FILE MISSING PARTS OF
NONPROVISIONAL APPLICATION AND
REQUEST FOR CORRECTED FILING RECEIPT

Assistant Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

Sir:

In response to the Notice to File Missing Parts Of Application – Filing Date Granted, dated June 16, 2000 ("Notice"), Applicants respectfully point out that the requested executed oath and declaration is no longer due. On June 12, 2000, Applicants filed in the United States Patent and Trademark Office ("PTO"), by Express Mail, the following documents: Transmittal of Declaration and Power of Attorney and Request for Refund, each bearing Express Mail No. EL 501 632 634 US, accompanied by a facsimile of the executed Declaration and Power of Attorney, and a facsimile of a Verified Statement claiming Small Entity Status. A copy of each of these documents, as well as a copy of the postcard receipt evidencing receipt of these documents by the PTO, is attached hereto as Exhibit A. Also enclosed as part of Exhibit A is a copy of the Express Mail Receipt for label No. EL 501 632 634 US, bearing a "date-in" of June 12, 2000. Accordingly, these documents are believed to fulfill the requirements of the Notice. A copy of the Notice is enclosed.

Applicants further request that the Patent Office correct the Filing Receipt for the above-identified application. In particular, the priority data is incorrect on the Filing Receipt. The application claims priority under 35 U.S.C. § 119(e) only to application no. 60/129,131 filed



on April 13, 1999, and not to application no. 60/118,030 filed on February 1, 1999, as appears on the filing receipt.

Enclosed herewith is a copy of the incorrect Filing Receipt with the incorrect priority information deleted in red ink. To support their position, Applicant also encloses herewith, as Exhibit B, copies of page 1 of the application, and the fee transmittal sheet, as filed on April 13, 1999, indicating the claimed priority to application no. 60/129,131.

Applicants respectfully request that a corrected Filing Receipt be issued.

Since the surcharge for filing the Declaration and Power of Attorney of \$65.00 for a small entity was authorized on June 12, 2000, no fee is now believed to be due. However, in the event that the PTO should determine that a fee is required please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date: November 29, 2000

Laura A. Coruzzi 30,742
Laura A. Coruzzi (Reg. No.)
By: Eileen E. Falvey 46,097
Eileen E. Falvey (Reg. No.)

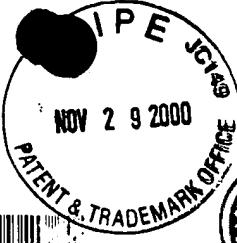
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090

Enclosures

FORMALITIES LETTER



OC00000005181379

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/547,220	6/11/2000	Michael Brines	10165-006-999

20583
 PENNIE AND EDMONDS
 1155 AVENUE OF THE AMERICAS
 NEW YORK, NY 100362711

Date Mailed: 06/16/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is granted TWO MONTHS from the date of this Notice within which to file all required items and pay any fees indicated below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the petition fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

A copy of this notice **MUST** be returned with the reply.

Customer Service Center

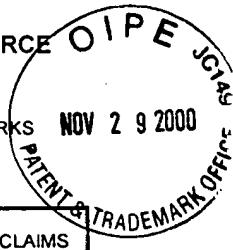
Initial Patent Examination Division (7000) 1402

PAGE 1 OF 1 THIS PAGE IS NOT TO BE RETURNED WITH RESPONSE

FILING RECEIPT



OC00000005181378

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: ASSISTANT SECRETARY AND
COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/547,220 ✓	04/11/2000 ✓	1636 ✓	1412	10165-006-999 ✓	17	27	5

20583
 PENNIE AND EDMONDS
 1155 AVENUE OF THE AMERICAS
 NEW YORK, NY 100362711

Date Mailed: 06/16/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Michael Brines, Woodbridge, CT ; ✓
 Anthony Cerami, New York, NY ;
 Carla Cerami, Sleepy Hollow, NY ;

Continuing Data as Claimed by Applicant

THIS APPLN CLAIMS BENEFIT OF 60/129,131 04/13/1999 ✓
 WHICH CLAIMS BENEFIT OF 60/118,030 02/01/1999

REFERRED TO Falvey
 REC'D

JUN 20 2000

Pennie & Edmonds
 O.K. for filing

Foreign Applications

If Required, Foreign Filing License Granted 06/15/2000

Title

Modulation of excitable tissue function by peripherally administered erythropoietin ✓

Preliminary Class

435

Data entry by : RIVERS, ANNETH

Team : OIPE

Date: 06/16/2000

